IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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C.W.P. No.18639 of 2006
Date of Decision:21.03.2007

M/s The Shirley Dyers, Tarn Taran Road, Amritsar

.....Petitioner

Vs.

Commissioner of Central Excise, Central Excise Commissionerate, Jalandhar and another

.....Respondents

CORAM:- HON'BLE MR. JUSTICE M.M.KUMAR
HON'BLE MR. JUSTICE RAJESH BINDAL

Present:- Mr. Jagmohan Bansal, Advocate for the petitioner.

Mr. Sanjeev Kaushik, Advocate for the respondents.

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M.M.KUMAR, J.

This petition filed under Article 226 of the Constitution of India prays for quashing of order dated 23.5.2006 (Annexure P.5) and 8.8.2006 (Annexure P.6) passed by the Customs Excise and Service Tax Appellate Tribunal (for short, `the Tribunal') directing the petitioner to deposit a sum of Rs.1.5 lacs as pre-deposit and the petitioner having failed to comply with the afore-mentioned requirement, as a consequence even his main appeal was also dismissed without considering the merits of the controversy. The petitioner has pleaded that the Commissioner of Central Excise, Amritsar (for short, `the Commissioner') has already passed order in original dropping the demand under similar circumstances and as a result, this Court in the case of **M/s Prime Textiles v. CCE, Amritsar** (C.W.P. No.10614 of 2006) decided on 22.8.2006) had set aside the order passed by the Tribunal directing the petitioner to make pre-deposit and had also issued direction to hear the appeal on merit. In the written statement filed by the respondent, the afore-mentioned factual position has not been disputed. The only stand taken is that the view taken in **M/s Prime Textiles' case (supra)** is not applicable to the facts of the present case.

After hearing learned counsel, we find that there is no substantial difference between the facts of the present case and that of **M/s**

Prime Textiles (supra). Therefore, following the view taken in **M/s Prime Textiles' case (supra),** we allow the petition and set aside the impugned orders dated 23.5.2006 (Annexure P.5) and 8.8.2006 (Annexure P.6). We also direct the Tribunal to entertain the appeal and decide the same on merits without insisting on the requirement of pre-deposit.

The petition stands disposed of in the manner indicated above.

(M.M.KUMAR)
JUDGE

March 21, 2007 **(RAJESH BINDAL)**
renu **JUDGE**